

Judge Franklin D. Burgess

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KYLE DAVIE GRAHAM,

Defendant.

CR 04-5172FDB

GOVERNMENT'S SENTENCING  
MEMORANDUM

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Reagan Dunn, Assistant United States Attorney, and submits the following sentencing memorandum.

**A. BACKGROUND**

On March 15, 2004, Kyle Davie Graham was stopped by officers of the Vancouver Police Department. Under the passenger seat of the car he was driving, officers found a Charter Arms Corporation, Off Duty Model, .38 special caliber revolver, serial number 953468, as well as six rounds of .38 caliber Remington Peters ammunition. The gun was found fully loaded under the passenger's seat of the car and had an extra bullet in his backpack in the backseat of the car. Graham was a felon and prohibited from possessing the gun. Graham did not confess the he possessed the gun nor was he the registered owner of the car.

As trial approached the government entered into a Rule 11(c)(1)(C) Plea

SENTENCING MEMORANDUM/GRAHAM — 1

1 Agreement with the defendant. In exchange for a sentencing recommendation of 40  
 2 months, the defendant agreed to plead guilty to one count of Felon in Possession of a  
 3 Firearm in Violation of 18 U.S.C. § 922(g)(1). Graham has pled guilty to this charge  
 4 and admitted he knowingly possessed the gun at the time he was stopped.

5 **B. RULE 11(c)(1)(C) PLEA AGREEMENT**

6 The parties have entered into an 11(c)(1)(C) Plea Agreement with the defendant.  
 7 The parties have agree to a range of 40 months. This recommendation, from the  
 8 government's perspective, takes into account possible proof problems which might have  
 9 occurred at trial based upon this unique set of facts.

10 **C. RECOMMENDED SENTENCE AND JUSTIFICATION**

11 The government therefore requests a sentence of 40 months with a period of  
 12 supervised release following trial of 3 years. The government moves to dismiss the  
 13 remaining Counts of the Superseding Indictment as agreed to in the Plea Agreement..

14 DATED this 2nd day of November, 2004.

15  
 16 Respectfully submitted,

17 JOHN McKAY  
 18 United States Attorney

19 s/ REAGAN DUNN  
 20 REAGAN DUNN  
 21 Assistant United States Attorney  
 22 United States Attorney's Office  
 23 601 Union Street, Suite 5100  
 24 Seattle, WA 98101-3903  
 25 Telephone: (206) 553-0347  
 26 Fax: (206) 553-0755  
 27 E-mail: [reagan.dunn@usdoj.gov](mailto:reagan.dunn@usdoj.gov)

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2004, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

s/JANET K. VOS  
Janet K. Vos  
Paralegal Specialist  
United States Attorney's Office  
700 Stewart Street, Suite 5220  
Seattle, Washington 98101-1271  
Phone: (206) 553-5041  
FAX: (206) 553-0755  
E-mail: [Janet.Vos@usdoj.gov](mailto:Janet.Vos@usdoj.gov)